

INTEREST ARBITRATION
ILLINOIS STATE LABOR RELATIONS BOARD

**ILLINOIS FRATERNAL ORDER OF POLICE
LABOR COUNCIL**

and

VILLAGE OF BROADVIEW

ILRB No. S-MA-13-173

OPINION AND AWARD
of
John C. Fletcher, Arbitrator
August 5, 2015

I. Procedural Background:

This matter comes as an interest arbitration between the Village of Broadview (“the Employer” or “the Village”) and Illinois Fraternal Order of Police Labor Council (“the Union”), held pursuant to Section 14 of the Illinois Public Labor Relations Act, 5 ILCS 315/314 (“the Act”). The hearing was before the undersigned, as the sole arbitrator, on April 28, 2015. The Union was represented at the hearing by:

Gary Bailey, Esq.
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Counsel for the Village was:

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Post-hearing briefs were filed with the Arbitrator on July 23, 2015. The record was closed on that date.

II. Factual Background

The Village is a suburb of Chicago, located in southwestern Cook County. Its fiscal year runs from the first of each May through the following thirtieth of April. It is a non-home-rule unit of government. The Village of Broadview Police Department (“the Department”) is managed by the Chief, who is assisted by the Deputy Chief, both of whom are excluded from the bargaining unit. The bargaining unit includes 21 sworn Patrol Officers. The Sergeants who supervise them are represented in a separate bargaining unit.

The current wage schedule for the officers in the unit, which became effective with the last pay raise for this unit on November 1, 2012, is as follows:

<u>Step</u>	<u>Base Salary</u>
G#0	\$53,100.19
G#1	66,240.62
G#2	69,845.93
G#3	73,466.92
G#4	77,080.05

Progression through the steps occurs annually, meaning from an officer’s date of through his or her first four years of service. The parties’ current agreement, which had a stated expiration of April 30, 2013, also provides for a very limited longevity increase, which is not at issue here.

The officers have a choice of health insurance coverage at the level of

Employee, Employee and Spouse, Employee and Children, and Family coverages. Currently, they contribute 10% of the premium at all levels of coverage, subject to a cap of \$300 per month. During the Village's FY2015, the total monthly premiums under the PPO – the plan in which most employees participate – were \$764 for Employee, \$1,628 for Employee plus Spouse, \$1,528 for Employee plus Children, and \$2,393 for Family. Effective May 1, 2015, the Village changed to providers obtained through a health and welfare fund offered through the SEIU, the union representing the Village's firefighters. The change was made upon recommendation of an insurance committee, made up of employees from various of the Village's offices and departments, which was tasked with the job of finding alternatives to the then existing insurance providers. As a result of joining the SEIU pool, the Village realized a substantial reduction in premiums. For example, the monthly total premium for family coverage under the PPO fell to \$1,753, while at the same time the employees realized reductions in their deductibles and other out-of-pocket costs.

III. Statutory Authority and the Nature of Interest Arbitration

The relevant statutory provisions governing the issues in this case are found in Section 14 of the Labor Act. In relevant part, they state:

5 ILCS 315/14(g)

On or before the conclusion of the hearing held pursuant to subsection (d), the arbitration panel shall identify the economic issues in dispute... the determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic

shall be conclusive... As to each economic issue, the arbitration panel shall adopt the last offer of settlement, which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h).

5 ILCS 315/14(h) – [Applicable Factors upon which the Arbitrator is required to base his findings, opinions and orders.]

- (1) The lawful authority of the employer.
- (2) Stipulations of the parties.
- (3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (4) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally.
 - (A) In public employment in comparable communities.
 - (B) In private employment in comparable communities.
- (5) The average consumer prices for goods and services, commonly known as the cost of living.
- (6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
- (7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (8) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

The parties agreed, and the Arbitrator finds, that the issues submitted for resolution here are economic in nature and that the Arbitrator's job, therefore, is to select from the parties' respective offers, on each issue, that offer which most

nearly “complies” with the above-listed Section 14(h) factors. As has been so often explained in the nearly two decades since the Act’s adoption, the Act itself provides almost no guidance to the arbitrator in deciding which factors apply in any given circumstance, or in giving them an appropriate weight. Arbitrators have over the years established external comparability, how the terms and conditions of employment of these employees stack up against the terms and conditions of employment of employees who perform similar duties in comparable communities, as the single most important factor in choosing between competing proposals on wages and other economic issues. Other important factors include internal comparability, how the terms and conditions of these employees stack up against the employer’s other employees; changes in the cost of living, the Consumer Price Index (“CPI”); and the employer’s ability to pay. This Arbitrator raises these points at this time for the specific purpose of establishing the primary context for his subsequent findings in this case. In addition, this Arbitrator’s approach to the issues at impasse in this record, and the application of the statutory criteria will, as always, comport with his firm opinion that this process is not, nor will it ever be, a substitute for grievance arbitration or meaningful bilateral collective bargaining.

V. THE PARTIES’ STIPULATIONS

The pertinent stipulations are as follows:

1. The parties waive the tri-partite panel and agree that Arbitrator Fletcher has sole authority to act as the Arbitrator in this matter.

2. The parties agree that the Arbitrator has the authority to make retroactive adjustments to May 1, 2013, and waive any defenses, rights or claims that the Arbitrator lacks such authority. The parties do not, however, intend by such waiver to predetermine whether any retroactive adjustments should be made.
3. The parties agree that the hearing will be held on April 28, 2015, and they waive the 15-day hearing requirement of Section 14(d).
4. The parties agree that the issues presented are economic issues, within the meaning of Section 14(g).
5. All tentative agreement reached between the parties during contract negotiations shall be incorporated into the arbitration award. All provisions of the current labor agreement, except those changed by tentative agreement or the Arbitrator's award on the issues presented here, will remain unchanged in the successor agreement.
6. The parties agree that the group of external comparables will include the following:
 - a) Countryside
 - b) Hillside
 - c) Lyons
 - d) North Riverside
 - e) Northlake
 - f) River Grove
 - h) Schiller Park
7. Except as specifically modified herein, the proceedings shall be governed by the Illinois Public Labor Relations Act. The Arbitrator shall base his findings and decision upon the applicable factors set forth in Section 14(h).
8. The Arbitrator shall issue his award within 60 days following submission of post-hearing briefs...

VI. OUTSTANDING ISSUES

1. Article XXX - Wages, Section 30.1 – Base Salary
2. Article XXIV - Insurance, Section 24.5 – Employee Contribution

VII – EXTERNAL COMPARABLES

The parties agreed to the following list of comparable municipalities:

Countryside
Hillside
Lyons
North Riverside
Northlake
River Grove
Schiller Park

VIII – INTERNAL COMPARABLES

The Village's sworn police officers in the rank of Sergeant, who are represented by ICOPS, are the closest and most important internal comparable, the Arbitrator finds. The Sergeants' were first organized in 2009 and their first labor agreement covered years May 1, 2010 through April 30, 2013. That agreement provided for annual wage increases that were identical, in terms of percentage, to the increases that these officers received under their labor agreement covering the same years. The Sergeants and the Village recently reached agreement on a new labor agreement, effective May 1, 2013 through April 30, 2016, which provides wage increases of 2.25% across-the-board for each year.

The Village's firefighters, another important internal comparable group, are represented by SEIU, Local 73, and are covered by labor agreement with an effective term of May 1, 2013 through April 30, 2016. The firefighter's agreement provides for annual wage increases of 2.0% in each year.

The Village's telecommunicators are represented by this Union. The parties did not submit any details as to the terms of their labor agreement, or their terms and conditions of employment.

The parties do not suggest that any parity relationship exists between the Patrol Officers at issue here and any internally comparable groups. However, the Village stresses a need to maintain an extant 10% rank differential with the Sergeants.

All of the Village's employee groups, other than the officers in this unit, i.e. firefighters, police sergeants, telecommunicators and unrepresented employees participated in an insurance committee process, through which the change to the SEIU plan came about. As part of that process, the unions involved agreed to increase the premium rate for their members to 12.5%, effective May 1, 2015, and to eliminate any cap on contribution from their contracts. The record also shows that the firefighters have agreed to increase their contribution rate to 15.0%, effective May 1, 2016, at which point the sergeants have agreed to an increase to 14.5%.

IX. OTHER STATUTORY CRITERIA

The Village does not claim an inability to pay relative to any of the Union's proposals here. The Village nevertheless suggests that its status as a non-home-rule unit of government substantially limits its "financial flexibility" to allocate resources toward police and fire budgets. The Village also points out that the

current Governor is proposing a reduction in the amount given municipalities under state sales tax revenue sharing by as much as 50%. Such a reduction would amount to \$372,500 in lost revenue to the Village by 2017.

The Village also notes that it was forced to layoff nine officers in 2006, going from a force of 34 to 25, due to financial difficulties. Since then, it has managed to hire five additional officers, principally due to federal grants received in 2012 and 2014; and the first of these grants will expire in 2015, and the second will expire in 2017. The terms of the grants require that the Village continue to employ the officers for a minimum of one year following the expiration of the grants.

The Union reminds the Arbitrator that an employer's pleas for "fiscal prudence" are not the same as an inability to pay and do not fall under any of the listed Section 14(h) factors. It is also important to keep in mind that "ability to pay" must be balanced against other factors impacting the "interests and welfare of the public," such as attracting and retaining a qualified workforce in the areas of emergency services.

X. THE ISSUES

Article XXX - Wages, Section 30.1

Base Salary

The Union's Final Proposal

The Union proposes general wage increases as follows:

1. Effective May 1, 2013 – 2.25% across the board.

2. Effective May 1, 2014 – 2.50% across the board.
2. Effective May 1, 2015 – 2.75% across the board.

The Village's Final Proposal

The Village proposes general wage increases as follows:

1. Effective May 1, 2013 – 2.25% across the board.
2. Effective May 1, 2014 – 2.25% across the board.
2. Effective May 1, 2015 – 2.25% across the board.

Position of the Union:

The Union points out that neither party proposes any changes to the existing step structure, and that all proposed wage increases at issue here are across-the board. Each party's offer is intended to be retroactive to the respective effective dates set out in the offer. Moreover, the parties' respective proposals are identical as to the first year of this Agreement, that being 2.25% across-the-board effective May 1, 2013, and they differ by less than 1% over the course of the next two years.

The Union points out that the officers in this unit reach top pay after four years of service. Among the comparables, on the other hand, the officers employed by all but one of the comparable communities continue to receive step and/or longevity increases well beyond five years of service. The bottom line is that although the officers in this unit are among the higher paid groups among the comparables to start their careers, they lag significantly behind their counterparts

in the comparable communities for the majority of their careers. The Union offers the following chart, based on the last year of the current labor agreement, FY2013, to demonstrate its point:

<u>Comp</u>	<u>Year</u>	<u>Start</u>	<u>1 Yr</u>	<u>5 Yrs</u>	<u>10 Yrs</u>	<u>15 Yrs</u>	<u>20 Yrs</u>
Countryside	May 2012	\$52,982	\$58,379	\$74,461	\$85,159	\$85,159	\$85,159
Hillside	May 2012	\$47,898	\$53,927	\$78,413	\$78,413	\$78,413	\$78,413
Lyons	Jan 2012	\$53,000	\$55,500	\$74,717	\$82,164	\$83,864	\$86,380
N Riverside	May 2012	\$50,878	\$58,828	\$76,317	\$84,462	\$84,462	\$86,151
Northlake	Jan 2012	\$58,966	\$65,517	\$77,171	\$78,714	\$78,714	\$78,714
River Grove	May 2012	\$41,872	\$46,872	\$67,772	\$74,029	\$74,779	\$75,279
Schiller Park	May 2012	\$53,284	\$58,614	\$71,244	\$77,051	\$79,551	\$81,845
AVERAGE		\$51,269	\$56,734	\$74,299	\$79,999	\$80,706	\$81,706
BROADVIEW	May 2012	\$53,100	\$66,241	\$77,080	\$77,080	\$77,080	\$77,080
Above/Below Average		+3.57%	+16.76%	+3.74%	-3.65%	-4.49%	-5.66%

Conceding that the wage data among the comparables is incomplete for the latter two years of this Agreement, as two comparables do not have available data for those years, the Union nevertheless suggests that the data shows that its proposal, being roughly 0.4% higher than the average of the increases received in the comparable in FY2015, and 0.1% higher than the average of the increases received by the comparables in FY2016, will have the effect of slightly reducing the gap with the comparables. The Village’s proposal, on the other hand, being 0.15% higher than the average among the comparables in FY 2015 and 0.4% below the average among the comparables in FY 2016, does nothing to close the gap.

The Union stresses that although it seeks to reduce the disparity in pay for the more senior officers, vis-à-vis the comparables, it is not seeking anything approaching a “catch up” in wages. Moreover, the Union suggested during the

hearing, that awarding officers in this unit slightly higher percentage increases in wages, as compared to their counterparts in the external communities, is justified by the fact that under either party's proposal for insurance the officers in this unit will be contributing more to premium than they had previously. See Village of Round Lake Beach and Illinois FOP Labor Council, S-MA-11-115 (Meyers, 2012), at 14 (finding that increases in health insurance contributions that the employees would suffer under the award "strongly" favored adoption of the union's wage proposal); see also, City of DeKalb and Illinois FOP Labor Council, S-MA-10-366 (Meyers, 2012); City of Danville and PBPA, S-MA-12-330 (Finkin, 2014).

The Union also challenges the position, taken by the Village's counsel at the hearing, that any effort to address what counsel termed the longevity increases received by the officers in the comparables was really not at an appropriate issue here, since the Union was not proposing any changes to the parties' longevity provision. The Union cites a number of awards by other interest arbitrators who have said that longevity increases should be considered as part of the overall wage rate and structure for the affected employees. See, County of Marion and the Marion County Sheriff and the Illinois FOP Labor Council, S-MA-12-042 (Greco, 2013); City of LaSalle and Illinois FOP Labor Council, S-MA-12-216 (Perkovich, 2013). Thus viewing the data, in terms of overall compensation, the Union's proposal, which slightly lowers the overall pay disparity between these officers

and their counterparts, is the more appropriate one in terms of external comparability.

Cost of living figures, though slightly favorable to the Village's proposal, should be given little weight here. To begin, the data is not complete – the parties could not provide any useful data for 2014 and 2015. Beyond that, cost of living data, like ability to pay arguments, should really be given consideration only where the parties are substantially apart in their respective proposals. Here, to the extent that one offer may be closer to cost of living increases, the difference is not such as to make the other proposal “grossly” inappropriate in terms of the data, whatever it may be.

Position of the Village:

Although the Village acknowledges this Arbitrator's stated position that external comparability is the single most important factor in assessing proposals on wages, it nevertheless asks the Arbitrator to give the greatest weight to the Village's goal of maintaining the wage differential between these officers and the Sergeants at its present 10%. That result will obtain only if the Village's proposal, which is identical to the wage package already agreed to by the Sergeants, is adopted. This is not a case where, as this Arbitrator found in City of Effingham and Illinois FOP Labor Council, S-MA-13-206 (Fletcher, 2014), the evidence of internal parity is “at best equivocal.” Wage parity between the officers and Sergeants is well established in this record as a matter of bargaining practice, as

the labor agreements negotiated with this Union, on behalf of these officers, and ICOP, on behalf of the Sergeants, covering fiscal years 2011 through 2013, contained identical wage packages. The rank differential was at 10% going into that agreement term and remains so to date. Maintaining this parity relationship between the groups makes sense, given the essential identity of the respective duties. In fact, other arbitrators have indicated that evidence of internal parity should be given “significant if not controlling weight in evaluating economic proposals in interest arbitration.” Village of Schaumburg and MAP, Chapter #195, S-MA-05-102 (Yeager, 2007), at p. 13.

Awarding the Union’s proposal would be inequitable. The Village would lose the benefit of its bargain with the Sergeants in this contract term and the result would likely to lead to a cycle of “catch up” wage proposals in future bargaining. Other arbitrators have noted the potential of a “whipsaw effect” in rejecting union proposals that would upset existing differentials. See County of Lake and IBT, Local 700, S-MA-13-248 (Greco, 2014); City of DeKalb and IAFF, S-MA-87-76 (Goldstein, 1988). The Village asks the Arbitrator to reach a similar conclusion.

Moreover, the Village’s offer compares well with the wage increases received among the external comparable groups, when viewed on a percentage-to-percentage basis. It maintains the officers in this unit at their current rank of sixth among the comparables at top pay, the rank that the Union agreed to in the last contract. The Union’s suggestion that something more than the average of those

increases is warranted for this group is simply not supported by consideration of the relevant data. In fact, the Union has included in its data the longevity pay that the officers in other communities receive, which skews the analysis. As Arbitrator Perkovich reasoned, in City of Peoria and PPBA, S-MA-13-144 (Perkovich, 2014), longevity pay should be considered separately from base wage increases for purposes of assessing the reasonableness of either. They are separate issues.

The Union's suggestion that its members will be forced to pay more for insurance is misleading. In fact, although the percentage that the employees will contribute is scheduled to increase under this Agreement, the actual dollar increase is minimized by the premium reductions that will simultaneously go into effect, as the result of the Village's recent change to a new plan. For example, the new monthly premium contribution that an officer will be required to pay for family coverage under the Village's PPO plan will be only \$2.00 more than the officer paid in contribution under the old plan, and the officer will actually save money through lower deductibles and out-of-pocket cost requirements.

Overall, cost of living figures clearly support the Village's proposal, as CPI-U data indicates that cost of living rose by just 2.0% in 2014. On the other hand, the Village will be facing substantially higher costs in maintaining its current police force as the federal grants it has received since 2012 expire. The Village adds, however, that it does not claim an inability to pay for the wage increases proposed by the Union.

Discussion:

Although this Arbitrator has noted on many occasions that external comparability remains the single most important factor in any analysis concerning wage proposals, see County of McHenry and SEIU, Local 73, S-MA-12-001 (Fletcher, 2013), at p. 10 (“external comparability is of primary importance in the analysis of the parties’ respective proposals”), this case appears to stand as an exception. The parties here are not very far apart on wages, and their respective proposals, while straddling the line in terms the averages of increases, do not depart from the average by much in either direction. The Arbitrator finds, in fact, that the Village’s proposal is slightly closer to the average of the increases among the external comparables than is the Union’s, but not to an extent that would, on its own, persuade this Arbitrator to find in the Village’s favor. This is a close case.

The Arbitrator has considered the Union’s suggestion that its proposal is more reasonable in light of the gap in wages vis-à-vis the comparables, which the officers begin to realize somewhere around 10 years of service, and the need to address that gap, if only modestly. The Arbitrator suggests, in response, that however modest the Union’s goals in terms of closing this perceived gap at this point, consideration of that goal would require a departure from the traditional percentage-to-percentage basis for comparing wages. In City of Matteson and IAFF, Local, S-MA-14-015 (Fletcher, 2014), at pp.40-41, this Arbitrator wrote:

. . . Absent special circumstances, i.e. a proven need for employees to catch up vis-à-vis the comparables or circumstances that will not

allow for an apples-to-apples comparison with the external communities, percentage-to-percentage comparisons of the respective proposal with the wage settlements shown among the chosen external communities is the most commonly used approach. See, County of Cook and Sheriff of Cook County and Teamsters Local Union No. 714, L-MA-95-01 (Goldstein, 1995).

See also, City of Wheaton and IAFF, Local 3706, S-MA-12-278 (Fletcher, 2014) at p. 23 (“Where the employees rank in any particular benefit among the comparables, both internal and external, is immaterial as a general rule. Absent a demonstrated need for some degree of ‘catch up’ with the comparables group the Arbitrator’s focus should be on ensuring that the employees keep pace with the group. Put another way, the focus is not so much on the current value of the benefits that others in the comparable communities receive as it is on whether that value has changed.”). The Arbitrator does not suggest that he will not take into account evidence of an existing wage gap between a particular group of employees and their counterparts in the external communities unless proof of a need for a “catch up” in wages is shown, even in a close case. However, the weight that he will give to such evidence is minimized where it is not accompanied by evidence that the gap in wages has grown. Such is the state of the evidence in this record.

The Arbitrator agrees with the Village’s suggestion that internal comparability, particularly regarding the Sergeants, is an important factor in this case. The Arbitrator initially notes that he does not find from the historical record, which really encompasses the period 2010 through 2013, a clear history of lock step, or parity bargaining in terms of the wages for these officers vis-à-vis the

Sergeants. He is also not willing to buy into the notion at this point that maintaining a 10% rank differential between the groups should be given controlling weight in assessing wage proposals involving these two groups, regardless of the circumstances. Having so noted, the Arbitrator finds, based on his own experience, that a rank differential of 10% is reasonable. It also appears that the differential, which predates the Sergeants' first labor agreement, is to some degree the product of negotiation between the Village and this Union. It is reasonable for the Arbitrator to give this factor substantial weight, especially given the fact that external comparability does not clearly favor either proposal.

Additionally, the record establishes that the Village's offer here exceeds, significantly, the wage increases that the Village's firefighters will receive over the three years covered by this Agreement. Therefore, based on this record, the Arbitrator finds that considerations of internal comparability strongly favor the Village's proposal.

The Arbitrator has also considered that the officers in this unit have agreed, as reflected in the proposals here of both parties, to pay more for their health insurance under this Agreement than they are paying currently. This Arbitrator agrees with the gist of the arbitral opinions cited by the Union on this point, which suggest that an increase in the employees' health care expenses is relevant to the issue of their income. However, the increase in this case appears to be minimal, in terms of actual dollars, and at least for the time being, and is something that the

officers have agreed to, primarily for reasons relating to internal comparability. Moreover, it appears that even with the increases, these officers will continue to fare well in terms of external comparability for health insurance, both in terms of their benefits and the amount they pay for it. The Arbitrator finds, in light of the circumstances, that the support that this factor provides for the Union's position is diminished and insufficient to overcome the somewhat stronger support that the Village's proposal receives in terms of comparability.

CPI is not a significant factor here. The projected CPI-U for the period of this Agreement lies between the two offers, albeit closer to the Village's offer. That the parties have already reached agreement on changes to the wage schedule that will benefit some of the members of this bargaining unit is not a matter of great concern to the Arbitrator. The facts show that the changes to the wage schedule were initiated by the Village. Its reasons for proposing them are not clear from the record. Moreover, the issue here involves across-the-board increases, which are traditionally measured against CPI on a percentage-to-percentage basis without regard to step movement. Accordingly, although the Arbitrator finds that the projected CPI-U favors the Village's position, that finding is not sufficient to tilt the tables in the Village's favor on this issue.

Thus, for all the foregoing reasons and in light of the evidence as it has been examined in the strict context of established statutory criteria, the Arbitrator finds the Village's final proposal to be more reasonable than the Union's with

respect to the issue of general wage increases. Accordingly, the Village's final offer is hereby adopted. The following Order so states.

Order

For all the foregoing reasons, which are incorporated herein as if fully rewritten, the Village's proposal with respect to Article XXX – Wages, Section 30.1 – Base Salary is adopted. It is so ordered.

**Article XXIV - Insurance,
Section 24.5 – Employee Contribution**

The Union's Final Proposal

The Union proposes as follows:

Effective May 1, 2015 – Increase employee contribution to 12.5% for all group plans, PPO and HMO, capped at \$350.00 per month.

The Village's Final Proposal

The Village proposes as follows:

Effective May 1, 2015 – Increase employee contribution to 12.5% for all group plans, PPO and HMO.

Position of the Union:

The Union points out that its members currently contribute 10% of premium for PPO and HMO coverage, whichever they choose, subject to a contribution cap of \$300.00 per month. The Union proposes to increase both the rate of contribution, going to 12.5% of premium, and the contribution cap, going to \$350.00 per month, all effective May 1, 2015. The Village proposes the same

increase in the contribution rate, also effective May 1, 2015, but also proposes to eliminate the contribution cap altogether. Among the external comparables, only Lyons uses a straight percentage contribution, without a cap in any form, similar to what the Village proposes here. The rest of the external groups structure employee contribution requirements in a way that provides some form of cap on those contribution requirements.

Whether the proposal is to add a cap that previously did not exist or to eliminate an existing one, the party proposing the change must show some basis for the change. City of Park Ridge and Illinois FOP Labor Council, S-MA-10-232 (Hill, 2011); Kankakee County ETSB and Illinois FOP Labor Council, S-MA-13-059 (McAlpin, 2014). Internal comparability is not a sufficient basis for eliminating a negotiated contribution cap, at least in the absence of a long history of “internal consistency” establishing parity on the issue. See, City of Park Ridge, S-MA-10-232. Moreover, as with any reduction in health benefits, most arbitrators will not allow it without an appropriate quid pro quo being provided. City of Galesburg and PSEO, S-MA-12-130 (Kossoff, 2012). These conditions are not shown in this record to be present here.

The Union concedes that the parties, not just the Village, are to some degree subject to the dictates of the market when it comes to health care costs. However, the Village has not shown that the costs of providing health insurance are at the point now, or will be during the term of this Agreement, where

eliminating the cap on the officers' contributions will even have an effect on what the officers pay. The Union notes the reasoning of Arbitrator Benn, in Village of Barrington and Illinois FOP Labor Council, S-MA-13-167 (Benn, 2015), wherein he rejected the employer's bid to make changes to the parties' healthcare language to address problems that had not arisen:

Given the very conservative nature of interest arbitration and the need of the moving party to show that an existing condition is broken before the status quo is changed, at this time, the Village's concerns are really hypothetical, at best.

On the other hand, the Union notes, its own proposal does not seek to simply preserve the status quo. Rather, its proposal increases the percentage that its member will contribute to health insurance, consistent with the Village's other employee groups. All that the Union has preserved of the status quo is the cap on those contributions, which finds support in a clear majority of the external comparables.

Position of the Village:

The Village points to evidence in the record showing large fluctuations in its premium costs, which occurred during the term of the current labor agreement, and which the Village recently acted to address. As a result of the changes recommended by the committee, and adopted by the Village, overall premium costs to the Village and employees were reduced while, at the same time, the employees benefitted from reductions in their deductibles and other out-of-pocket

costs. The Village reminds the Arbitrator that three of the four bargaining units it deals with participated in the committee and, as part of the deal, agreed not only to increase the percentage that their members contribute to premiums but also to eliminate existing caps on those contribution requirements. The Village also reminds the Arbitrator that internal uniformity is often given near controlling weight by arbitrators in matters of health insurance. Indeed, Arbitrator Goldstein recently commented that arbitrators recognize “with amazing uniformity” the “strong interest” that employers have in maintaining uniform insurance benefits throughout the workforce. City of Rockford and IAFF, Local 413, S-MA-12-108 (Goldstein, 2013), at p. 83.¹

The Village has a legitimate interest in eliminating the cap. It wants its employees to participate in the committee process and to make “informed decisions” when choosing health care plans. Capping their obligation to contribute to the cost of their health insurance effectively reduces their “stake” in the process and, as a consequence, their incentive to hold costs down. This is not a hypothetical.

The Union’s complaint that it was not allowed to participate in the committee process is specious. The Union was invited to participate, but declined the invitation. The process it agreed to, contained the current labor agreement,

¹ Actually, the Village here misreads SM-A- 12-108. All that Goldstein was commenting on at page 83 was argument in the Employer’s brief. The quote. “with amazing uniformity”, was the employer’s, not a conclusion by Goldstein. Accordingly, this quote had ought not be cited as findings or dicta by Goldstein.

allows the Union to challenge any changes that may come out of the committee process that affect actual benefits. The Union has accepted the changes made thus far, which have only improved those benefits.

The Union's additional concern that the cap is needed as a buffer against the sort of fluctuations in cost that occurred in the past is also unfounded. Those fluctuations were the result of the Village going out on its own to the market place, where its premiums were set based on the claims experience of its employees alone. The Village now participates in a larger group, which will help to keep costs stable.

Discussion:

The Village has taken on a difficult burden here, it seems to this Arbitrator. It seeks to change the structure of the premium contribution requirement, in order to shift more of the risk of increased costs to the employees, at a time when its own costs have gone down and the employees have already agreed to accept a higher percentage of the burden. The circumstances bring to mind Arbitrator Benn's decision in Village of Oak Brook and IBT, Local 714, S-MA-96-73 (Benn, 1996), where the employer sought to impose a contribution requirement on employees, where previously there had been none, at the levels Single Plus One and Family coverage. The employer argued that by doing so, it was proposing to give the employee an "ownership interest" in their coverage, which would incentivize the employees to make prudent judgments in how they utilized their

benefits. Arbitrator Benn agreed with the employer's arguments, as a conceptual matter, and he added that imposing some premium cost on employees "takes these public sector employees into the 'real world' where the notion of fully paid insurance benefits by an employer is on the wane." Village of Oak Brook, S-MA-96-73, at p. 7. Moreover, he found that employer's proposal was modest in terms of the burden it would place on employees.

Arbitrator Benn nevertheless rejected the proposal. In doing so, he put aside the Union's arguments regarding changes to the status quo and the attendant burdens placed on parties seeking such changes. Instead, he reasoned that because the employer had not shown that it had suffered any adverse claims experience, and no incidental increase in its costs, its arguments were essentially theoretical. He found that "ultimately, the [employer's] proposal to change the insurance provision does not have a rational factual basis and, hence, is not reasonable," within the meaning of Section 14(h) of the Act.

This Arbitrator finds Arbitrator Benn's reasoning to be sound. He again notes that interest arbitration is essentially a conservative process. The parties may themselves agree to whatever changes they wish regarding the terms of their contract, and may anticipate and provide for potential changes in the market, or, as this Arbitrator has seen much of late, anticipated effects of looming regulatory problems, i.e. the "Cadillac Tax" under the Affordable Care Act, as they see fit, without regard to whether the present circumstance suggest a present factual basis

for the change. Such arrangements and rearrangements of existing contract provisions are part and parcel of the give and take of collective bargaining. An arbitrator, on the other hand, should impose changes in the parties' contract only where there exists a real and present, or at least probable and imminent, reason for doing so. See, Village of Barrington and Illinois FOP Labor Council, S-MA-13-167 (Benn, 2015), at p. 20 (rejecting an employer's proposal to add a provision to the parties' insurance provisions allowing the employer to change benefits as it deemed necessary to avoid the "Cadillac Tax," referring to the employer's concerns as "hypothetical").

The circumstances of this case, as shown in the record, suggest that it is unlikely that the cap, which the Union has agreed to increase to \$350.00 per month, will be effective during the term of this Agreement, which expires at the end of April next year. Although the Arbitrator believes that the Village has a rational basis for its desire to eliminate the cap, that rationale - giving incentive to the officers to make prudent choices when selecting insurance plans - is really hypothetical at this point. For this reason, the Arbitrator believes that he cannot find the Village's proposal to be the more reasonable of the two proposals submitted, within the meaning of Section 14(h).

Internal comparability does not save the Village's proposal. To begin, a majority of arbitrators, including this one, give more weight to internal comparability in insurance matters where benefits are at issue, than they do as to

issues of employee contributions. See, City of Carlinville and PBLC, S-MA-11-307 (Goldstein, 2012). It also appears from the evidence in this record that the other bargaining units in this Village, most notably the firefighters and the Sergeants, voluntarily gave up whatever contribution caps they had, as a matter of arms-length bargaining. This is an important distinction, as the Arbitrator previously discussed. Finally, the record shows that the Village has already entered into agreements with the other unions, which contain contribution requirements that differ not only with what is proposed here, but also differ vis-à-vis each other. It appears that internal consistency, as the Union termed it, is not exceedingly important to the Village, at least as to the employees' costs for the insurance provided.

Thus, for all the foregoing reasons and in light of the evidence as it has been examined in the strict context of established statutory criteria, the Arbitrator finds the Union's final proposal to be more reasonable than the Union's with respect to the issue of employee contributions to health insurance. Accordingly, the Union's final offer is hereby adopted. The following Order so states.

Order

For all the foregoing reasons, which are incorporated herein as if fully rewritten, the Arbitrator concludes that the Union's proposal with respect to Article XXV – Insurance, Section 24.5 – Employee Contribution is adopted. It is so ordered.

XI. CONCLUSION AND AWARD

The foregoing Orders represent the final and binding determination of the Neutral Arbitrator in this matter, and it is therefore directed that the parties' Collective Bargaining Agreement be amended to incorporate previously agreed upon modifications along with the specific determinations made above.

John C. Fletcher, Arbitrator

Poplar Grove, Illinois, August 5, 2015